



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 17, 2005

Mr. Walter E. Zellers
City Attorney
City of Weatherford
P.O. Box 255
Weatherford, Texas 76086

OR2005-01479

Dear Mr. Zellers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 219003.

The Weatherford Police Department (the "department") received a request for information concerning case numbers 200427165, 200426511, 200420929, 200426405, 200420858, 200204444, and 200216392. You indicate the department is releasing case numbers 200426511, 200420929, 200420858, and 200204444 to the requestor. You also state that the department is releasing portions of case numbers 200427165, 200426405, and 200216392 to the requestor, but seeks to withhold the remaining information pertaining to these case numbers. You claim the information you seek to withhold is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation or prosecution of crime;

(2) it is information that deals with the detection, investigation or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. See Gov't Code §§ 552.108(a)(1), (a)(2), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that case numbers 200427165 and 200426405 relate to pending criminal investigations. Thus, based on your representations and our review, we determine that the release of the submitted information pertaining to case numbers 200427165 and 200426405 would interfere with the detection, investigation, or prosecution of crime, and we therefore agree that section 552.108(a)(1) is applicable to this information. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). You also advise that case number 200216392 pertains to a case that concluded in a final result other than conviction or deferred adjudication. We therefore agree that section 552.108(a)(2) is applicable to the submitted information pertaining to case number 200216392.

We note, however that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, 531 S.W.2d 177. See Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold the submitted information pertaining to case numbers 200427165 and 200426405 from disclosure pursuant to section 552.108(a)(1), and the submitted information pertaining to case number 200216932 pursuant to section 552.108(a)(2).¹ We note, however, that case number 200426405 contains the social security number of an arrested person. While the social security number of an arrested person is considered to be basic information, a social security number may be excepted in certain circumstances under section 552.101 of the Government Code. See *id.* (social security number of arrestee within scope of basic information held public in *Houston Chronicle*). In this case, however, because the arrestee at issue is the requestor, the requestor has a special right of access to his social security number pursuant to section 552.023 of the Government Code. See Gov't Code § 552.023 (person's authorized representative has special right of access to information that is excepted from public disclosure under laws intended to protect person's privacy interest

¹ Because the telephone numbers you have highlighted in the submitted documents are not within the scope of basic information, we find they are excepted under 552.108 and we do not reach your other arguments against disclosure for this information. We also note that a suspect's driver's license information is not within the scope of basic information and may therefore be withheld under section 552.108. See Open Records Decision No. 127 (1976).

as subject of the information). Accordingly, the social security number at issue is not excepted under section 552.101 and must be released.

In summary, with the exception of basic information, which must be released, the department may withhold the information at issue pertaining to case numbers 200427165 and 200426405 from disclosure pursuant to section 552.108(a)(1) of the Government Code, and the submitted information pertaining to case number 200216932 pursuant to section 552.108(a)(2). The social security number of an arrestee must be released in this instance pursuant to section 552.023 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within thirty calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or

complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



David R. Saldivar
Assistant Attorney General
Open Records Division

DRS/seg

Ref: ID# 219003

Enc: Submitted documents

c: Mr. Doyle Zan Combs
2066 Wood Hollow Road
Denton, Texas 76208
(w/o enclosures)